

REMARKS

Reconsideration and withdrawal of all grounds of rejection are respectfully requested in view of the above amendments and the following remarks. Claims 1, 4 and 6 have been amended. Claims 2, 3, 5 and 7 are canceled.

The claims have been amended to recite the closed transitional language “consisting of” which excludes from the claim unrecited elements except for impurities associated therewith. See Ex parte Davis, 80 USPQ 448 (pat. Office Bd. App. 1948 and Bethell v. Koch, 427 F.2d 1372 (CCPA 1970). The claims also indicate that each element in the claim is essential, namely, each element accounts for “more than 0%” and some % or less. This claim language is supported by Tables 1 and 2 showing the listed elements present in certain amounts in the examples. The issue of the claim being closed to the addition of other elements was already discussed in the last response and in the previous office action.

1. Claims 1, 4 and 6 were rejected under 35 U.S.C. §103 over Kiser (U.S. Patent No. 6,242,113) combined with Kudo (U.S. Patent No. 4,400,209) and Kawaguchi et al. (JP 11-170084).

The invention as described by the current claims is not disclosed or obvious in view of the applied references. As discussed in the last amendment, the filler material disclosed by Kiser includes the presence of Cu, W, Mo and Co. These elements are not described as impurities in Kiser, but rather incidental impurities are listed after these elements are recited (see Kiser, col. 2, lines 37, 38 and 42, 43). Kudo also features amounts of Cu, W, Mo, Co and Y while Kawaguchi features amounts of Cu, W, and Mo. Therefore, a composition resulting from the combination of Kiser, Kudo and Kawaguchi would contain amounts of Cu, W, Mo and Co. However, these elements are excluded by the “consisting of” language of the claimed invention. Moreover, the filler material resulting from the combination of references would have a different effect compared to the claimed invention. Therefore, the claimed invention is not obvious in view of the applied references. Accordingly, withdrawal of this rejection is respectfully requested.

Moreover, the Office Action indicates that Kiser does not teach vanadium, nitrogen, calcium, magnesium, rare earth elements or oxygen as components of the filler material, but that Kudo and Kawaguchi disclose these elements. A given effect may be obtained through the interaction of the elements included in the filler material. Such effect cannot be obtained through the accumulation of effects derived from individual elements included in the filler material. Therefore, one of ordinary skill in the art will not find it obvious to simply include elements

disclosed by Kudo and Kawaguchi in the filler material of Kiser to thereby obtain a filler material similar to the filler material of the present invention.

Further, the content of Nb taught by Kiser, namely, 0.6 to 0.95 wt% does not overlap the Nb of the present invention, namely more than 0% and 0.5 wt% or less (as amended). Therefore, the claimed filler material cannot be achieved by the above combination of references.

It is respectfully submitted that the above amendments, taken in conjunction with the foregoing remarks, place all pending claims in condition for allowance. Accordingly, an early Notice of Allowance for this application is respectfully requested.

If there are any additional fees resulting from this communication, please charge same to our Deposit Account No. 16-0820, our Order No. NISA1-39951.

Respectfully submitted,

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